

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

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2006 MAY 24 PM 2:48

The undersigned intends to circulate and file an INITIATIVE or a REFERENDUM (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the MEASURE or CONSTITUTIONAL AMENDMENT (circle appropriate word) intended to be INITIATED or REFERRED (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

(see attached summary)

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[Signature]
Signature of Applicant
Mark Anthony Desimone
Printed Name of Applicant
607 W. Osborn
Address
Phoenix AZ 85013
City State Zip
602-235-9473
Telephone Number

Arizona Non-Smoker Protection Committee
Name of Organization (if any)
PO Box 1145
Address
Phoenix AZ 85001
City State Zip
602-385-0471
Telephone Number
Mark Anthony Desimone, Chairman
Name of Officer and Title
607 W. Osborn
Address
Phoenix AZ 85013
City State Zip
602-235-9473
Telephone Number
Fred Mallaive, Treasurer
Name of Officer and Title
3901 E Whittan
Address
Phoenix AZ 85018
City State Zip
602-285-1092
Telephone Number

Date of Application	<u>May 24, 2006</u>
Signatures Required	<u>122, 612</u>
Deadline for Filing	<u>July 6, 2006</u>
Serial Number Issued	<u>I-22-2006</u>
FOR OFFICE USE ONLY	

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Summary

The **Arizona Non-Smoker Protection Act** creates a balanced, reasonable, consistent, statewide non-smoking law, protecting minors and preserving private property rights. The Act will not raise taxes or create new government programs. The Act would prohibit smoking in enclosed public places and places of employment, except bars and tobacco shops. Minors are not permitted in any part of a bar or tobacco shop that permits smoking. Signs must notify patrons and employees where smoking is permitted. If part of a larger business, the bars and tobacco shops must be separated by floor to ceiling partitions and a separate ventilation system,

OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES BY
REPEALING SECTIONS 36-601.01 AND 36-601.02; ADDING NEW SECTION 36-
601.01; RELATING TO SMOKING

Sec. 1. Title

This act may be cited as the “Arizona Non-Smoker Protection Act.”

Sec. 2. Purpose and Intent

In order to protect children, patrons, employees, veterans, jobs, tourism and private property rights, the people of Arizona declare their intent to enact the Arizona Non-Smoker Protection Act to ban smoking in all public places and places of employment with exceptions including bars and tobacco shops.

Sec. 3. Sections 36-601.01 and 36-601.02 Arizona Revised Statutes are repealed.

Sec. 4. Title 36, Chapter 6, Article 1 is amended by adding section 36-601.01 to read:

36-601.01. Smoking in public places and places of employment; exceptions

A. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, WHENEVER USED IN THIS SECTION, SHALL BE CONSTRUED AS DEFINED IN THIS SECTION:

1. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS ANY SERVICE ON A FULL-TIME, PART-TIME OR CONTRACTED BASIS WHETHER OR NOT THE PERSON IS DENOMINATED AN EMPLOYEE, INDEPENDENT CONTRACTOR OR OTHERWISE AND WHETHER OR NOT THE PERSON IS COMPENSATED OR IS A VOLUNTEER.

2. "EMPLOYER" MEANS A PERSON, BUSINESS, PARTNERSHIP, ASSOCIATION, THE STATE OF ARIZONA AND ITS POLITICAL SUBDIVISIONS, CORPORATIONS, INCLUDING A MUNICIPAL CORPORATIONS, TRUST, OR

NON-PROFIT ENTITY THAT EMPLOYS THE SERVICES OF ONE OR MORE INDIVIDUAL PERSONS.

3. "ENCLOSED AREA" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING THAT IS ENCLOSED ON ALL SIDES BY PERMANENT OR TEMPORARY WALLS OR WINDOWS (EXCLUSIVE OF DOORWAYS), WHICH EXTEND FROM THE FLOOR TO THE CEILING. ENCLOSED AREA INCLUDES A REASONABLE DISTANCE FROM ANY ENTRANCES, WINDOWS AND VENTILATION SYSTEMS SO THAT PERSONS ENTERING OR LEAVING THE BUILDING OR FACILITY SHALL NOT BE SUBJECTED TO BREATHING TOBACCO SMOKE AND SO THAT TOBACCO SMOKE DOES NOT ENTER THE BUILDING OR FACILITY THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS OR ANY OTHER MEANS.

4. "HEALTH CARE FACILITY" MEANS ANY ENCLOSED AREA UTILIZED BY ANY HEALTH CARE INSTITUTION LICENSED ACCORDING TO TITLE 36 CHAPTER 4, CHAPTER 6 ARTICLE 7, OR CHAPTER 17, OR ANY HEALTH CARE PROFESSIONAL LICENSED ACCORDING TO TITLE 32 CHAPTERS 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, OR 42.

5. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ENTITY, ASSOCIATION, GOVERNMENTAL SUBDIVISION OR UNIT OF A GOVERNMENTAL SUBDIVISION, OR A PUBLIC OR PRIVATE ORGANIZATION OF ANY CHARACTER.

6. "PHYSICALLY SEPARATED" MEANS ALL SPACE BETWEEN A FLOOR AND CEILING WHICH IS ENCLOSED ON ALL SIDES BY SOLID WALLS OR WINDOWS (EXCLUSIVE OF DOOR OR PASSAGEWAY) AND INDEPENDENTLY VENTILATED FROM SMOKE-FREE AREAS, SO THAT AIR WITHIN PERMITTED SMOKING AREAS DOES NOT DRIFT OR GET VENTED INTO SMOKE-FREE AREAS.

7. "PLACES OF EMPLOYMENT" MEANS AN ENCLOSED AREA UNDER THE CONTROL OF A PUBLIC OR PRIVATE EMPLOYER THAT EMPLOYEES NORMALLY FREQUENT DURING THE COURSE OF EMPLOYMENT, INCLUDING OFFICE BUILDINGS, WORK AREAS, AUDITORIUMS, EMPLOYEE

LOUNGES, RESTROOMS, CONFERENCE ROOMS, MEETING ROOMS, CLASSROOMS, CAFETERIAS, HALLWAYS, STAIRS, ELEVATORS, HEALTH CARE FACILITIES, PRIVATE OFFICES AND VEHICLES OWNED AND OPERATED BY THE EMPLOYER DURING WORKING HOURS WHEN THE VEHICLE IS OCCUPIED BY MORE THAN ONE PERSON. A PRIVATE RESIDENCE IS NOT A "PLACE OF EMPLOYMENT" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

8. "VETERAN AND FRATERNAL CLUBS" MEANS A CLUB AS DEFINED IN A.R.S. 4-101(7)(A)(B) OR (C).

9. "PUBLIC PLACE" MEANS ANY ENCLOSED AREA TO WHICH THE PUBLIC IS INVITED OR IN WHICH THE PUBLIC IS PERMITTED, INCLUDING AIRPORTS, BANKS, BARS, COMMON AREAS OF APARTMENT BUILDINGS, CONDOMINIUMS OR OTHER MULTIFAMILY HOUSING FACILITIES, EDUCATIONAL FACILITIES, ENTERTAINMENT FACILITIES OR VENUES, HEALTH CARE FACILITIES, HOTEL AND MOTEL COMMON AREAS, LAUNDROMATS, PUBLIC TRANSPORTATION FACILITIES, RECEPTION AREAS, RESTAURANTS, RETAIL FOOD PRODUCTION AND MARKETING ESTABLISHMENTS, RETAIL SERVICE ESTABLISHMENTS, RETAIL STORES, SHOPPING MALLS, SPORTS FACILITIES, THEATERS, AND WAITING ROOMS. A PRIVATE RESIDENCE IS NOT A "PUBLIC PLACE" UNLESS IT IS USED AS A CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.

10. "RETAIL TOBACCO STORE" MEANS A RETAIL STORE THAT DERIVES THE MAJORITY OF ITS SALES FROM TOBACCO PRODUCTS AND ACCESSORIES. "RETAIL TOBACCO STORE" DOES NOT INCLUDE GROCERY STORES, CONVENIENCE STORES, GAS STATIONS, GENERAL RETAILERS OR SIMILAR RETAIL ESTABLISHMENTS

11. "SMOKING" MEANS INHALING, EXHALING, BURNING, OR CARRYING OR POSSESSING ANY LIGHTED TOBACCO PRODUCT, INCLUDING CIGARS, CIGARETTES, PIPE TOBACCO AND ANY OTHER LIGHTED TOBACCO PRODUCT.

12. "SPORTS FACILITIES" MEANS ENCLOSED AREAS OF SPORTS PAVILIONS, STADIUMS, GYMNASIUMS, HEALTH SPAS, BOXING ARENAS, SWIMMING POOLS, ROLLER AND ICE RINKS, BILLIARD HALLS, BOWLING ALLEYS, AND OTHER SIMILAR PLACES WHERE MEMBERS OF THE GENERAL PUBLIC ASSEMBLE TO ENGAGE IN PHYSICAL EXERCISE, PARTICIPATE IN ATHLETIC COMPETITION, OR WITNESS SPORTING EVENTS.

13. "BAR" MEANS AN ENCLOSED ESTABLISHMENT WHERE THE PRIMARY PURPOSE IS THE SALE, SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES. "BAR" ALSO INCLUDES A SEPARATE, ENCLOSED PART OF A LARGER ESTABLISHMENT, SUCH AS A HOTEL, POOL HALL, PRIVATE, VETERANS' OR SERVICE CLUB, RACE TRACK, RESTAURANT, OR OTHER SIMILAR ESTABLISHMENT, IF (1) THE PRIMARY PURPOSE OF THAT SEPARATE, ENCLOSED PART OF THE LARGER ESTABLISHMENT IS THE SALE, SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES; AND (2) THAT PART OF THE LARGER ESTABLISHMENT IS PHYSICALLY SEPARATED FROM THE REMAINDER OF THE LARGER ESTABLISHMENT BY FLOOR TO CEILING PARTITIONS AND HAS A SEPARATE VENTILATION SYSTEM.

B. SMOKING IS PROHIBITED IN ALL PUBLIC PLACES AND PLACES OF EMPLOYMENT WITHIN THE STATE OF ARIZONA, EXCEPT THE FOLLOWING:

1. PRIVATE RESIDENCES, EXCEPT WHEN USED AS A LICENSED CHILD CARE, ADULT DAY CARE, OR HEALTH CARE FACILITY.
2. HOTEL AND MOTEL ROOMS THAT ARE RENTED TO GUESTS AND ARE DESIGNATED AS SMOKING ROOMS; PROVIDED, HOWEVER, THAT NOT MORE THAN FIFTY PERCENT OF ROOMS RENTED TO GUESTS IN A HOTEL OR MOTEL ARE SO DESIGNATED.
3. RETAIL TOBACCO STORES THAT PROHIBIT MINORS FROM ENTERING OR REMAINING ON THE PREMISES AND THAT ARE PHYSICALLY SEPARATED FROM SURROUNDING AREAS BY FLOOR TO CEILING PARTITIONS AND HAVE A SEPARATE VENTILATION SYSTEM.
4. VETERANS AND FRATERNAL CLUBS WHEN THEY ARE NOT OPEN TO THE GENERAL PUBLIC.

5. SMOKING WHEN ASSOCIATED WITH A RELIGIOUS CEREMONY PRACTICED PURSUANT TO THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT OF 1978.

6. OUTDOOR PATIOS SO LONG AS TOBACCO SMOKE DOES NOT ENTER AREAS WHERE SMOKING IS PROHIBITED THROUGH ENTRANCES, WINDOWS, VENTILATION SYSTEMS, OR OTHER MEANS.

7. A THEATRICAL PERFORMANCE UPON A STAGE OR IN THE COURSE OF A FILM OR TELEVISION PRODUCTION IF THE SMOKING IS PART OF THE PERFORMANCE OR PRODUCTION.

8. BARS AS PROVIDED IN SUBSECTION C.

C. A PERSON WHO OWNS A BAR MAY PERMIT THE SMOKING OF TOBACCO IN ALL OR PART OF THE BAR ONLY AS PROVIDED IN THIS SUBSECTION, A SUBJECT TO THE FOLLOWING:.

1. A PERSON WHO OWNS A BAR THAT PERMITS SMOKING IN ANY PART OF THE BAR SHALL NOT PERMIT A MINOR TO ENTER OR REMAIN IN THE BAR.

2. A PERSON WHO OWNS A BAR THAT PERMITS SMOKING IN ANY PART OF THE BAR SHALL POST A CONSPICUOUS SIGN AT EACH ENTRANCE TO THE BAR ADVISING PATRONS AND EMPLOYEES THAT SMOKING IS PERMITTED IN PART OR ALL OF THE BAR.

3. A PERSON WHO OWNS A BAR WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS THREE MISDEMEANOR.

D. TO PROTECT THE PRIVATE PROPERTY RIGHTS OF ALL PERSONS WHO OWN BARS AND RETAIL TOBACCO STORES IN THIS STATE, THE PEOPLE OF ARIZONA FIND AND DETERMINE A SINGLE STATEWIDE STANDARD FOR SMOKING IN BARS AND TOBACCO SHOPS TO BE A MATTER OF STATEWIDE CONCERN. IT IS DECLARED THAT THIS SECTION PREEMPTS ALL MUNICIPAL AND COUNTY LAWS, CHARTERS, ORDINANCES, RULES AND REGULATIONS RELATING TO SMOKING IN BARS AND RETAIL TOBACCO STORES.

E. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER, OPERATOR, MANAGER, OR OTHER PERSON OR ENTITY IN CONTROL OF AN ESTABLISHMENT, FACILITY, OR OUTDOOR AREA MAY DECLARE THAT ENTIRE ESTABLISHMENT, FACILITY, OR OUTDOOR AREA AS A NONSMOKING PLACE.

F. POSTING OF SIGNS AND ASHTRAY REMOVAL.

1. "NO SMOKING" SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL (CONSISTING OF A PICTORIAL REPRESENTATION OF A BURNING CIGARETTE ENCLOSED IN A RED CIRCLE WITH A RED BAR ACROSS IT) SHALL BE CLEARLY AND CONSPICUOUSLY POSTED BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON IN CONTROL OF THAT PLACE IDENTIFYING WHERE SMOKING IS PROHIBITED BY THIS SECTION AND WHERE COMPLAINTS REGARDING VIOLATIONS MAY BE REGISTERED.

2. EVERY PUBLIC PLACE AND PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED BY THIS SECTION SHALL HAVE POSTED AT EVERY ENTRANCE A CONSPICUOUS SIGN CLEARLY STATING THAT SMOKING IS PROHIBITED.

3. ALL ASHTRAYS SHALL BE REMOVED FROM ANY AREA WHERE SMOKING IS PROHIBITED BY THIS SECTION BY THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

G. NO EMPLOYER MAY DISCHARGE OR RETALIATE AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE EXERCISES ANY RIGHTS AFFORDED BY THIS SECTION OR REPORTS OR ATTEMPTS TO PROSECUTE A VIOLATION OF THIS SECTION.

H. AN OWNER, MANAGER, OPERATOR OR EMPLOYEE OF PLACE REGULATED BY THIS LAW SHALL INFORM ANY PERSON WHO IS SMOKING IN VIOLATION OF THIS LAW THAT SMOKING IS ILLEGAL AND REQUEST THAT THE ILLEGAL SMOKING STOP IMMEDIATELY.

I. THIS LAW DOES NOT CREATE ANY NEW PRIVATE RIGHT OF ACTION NOR DOES IT EXTINGUISH ANY EXISTING COMMON LAW CAUSES OF ACTION.

J. A PERSON WHO SMOKES WHERE SMOKING IS PROHIBITED IS GUILTY OF A PETTY OFFENSE WITH A FINE OF NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN THREE HUNDRED DOLLARS.

K. TRIBAL SOVEREIGNTY - THIS SECTION HAS NO APPLICATION ON INDIAN RESERVATIONS AS DEFINED IN ARS 42-3301(2).

Sec. 5. Severability

If any provision, clause, sentence or paragraph of this Act or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

RECEIPT

The Arizona Secretary of State has completed her duties in accordance with Arizona Revised Statutes § 19.121.01(A). **Arizona Non-Smoker Protection Committee**, has filed a total of 18,560 petition signature sheets containing 214,656 signatures to initiative petition serial number I-22-2006, which are eligible for verification. This receipt does not constitute an acknowledgement or determination by the Secretary of State that any of those signature sheets are in compliance with legal requirements for placing a measure on the November 7, 2006 General Election ballot. That determination can only be made after the Secretary of State and the County Recorders have performed their duties with respect to initiative petitions as required by law.

Dated this 27th Day of July, 2006.


JANICE K. BREWER
Secretary of State

**Sheets Removed from I-22-2006
By the Secretary of State's Office during processing of petitions**

Reasons for Removal	Sheets	Signatures
Notary incomplete or missing or notary expired	78	834
Affidavit of Circulator incomplete or missing	78	861
Paid or Volunteer circulator not marked	108	1,179
Signatures obtained after notarization	37	405
Attached text incomplete or missing	16	167
All signatures on sheet would have been removed for missing information	15	66
Withdrawn by notarized statement	0	7
TOTAL	332	3,519



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

August 23, 2006


The Honorable Janet Napolitano
Office of the Governor
1700 West Washington Street,
Phoenix, Arizona 85007

Dear Governor Napolitano:

You are hereby notified, pursuant to Arizona Revised Statutes § 19-121.04(B), that the initiative measure I-22-2006, Arizona Non-Smoker Protection Committee, has met the signature requirements for placement on the November 7, 2006 General Election Ballot as Proposition 206.

Enclosed is the final tabulation of the random sampling and a copy of the official receipt.

Sincerely,


JANICE K. BREWER
Secretary of State

Enclosures



JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

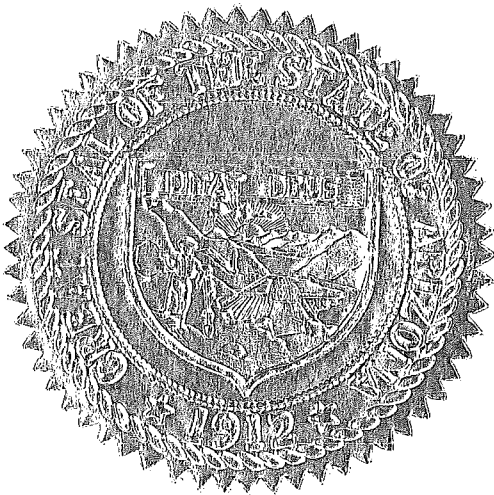
TO: Mark Anthony Desimone
Arizona Non-Smoker Protection Committee
P.O. Box 1145
Phoenix, AZ 85001

Having completed the requirements of A.R.S. § 19-121.04, I, Janice K. Brewer, Secretary of State, hereby certify that:

332 signature pages bearing 3,519 signatures for initiative petition serial number I-22-2006 have been refused for filing in this office because the person circulating was a county recorder or justice of the peace at the time of circulating the petition or due to defects in the circulator's affidavit. A total of 2006 signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of 10,733 signatures, a total of 3,023 signatures were invalidated by the county recorders resulting in a failure rate of 28.17 per cent. The actual number of remaining signatures for such initiative petition number I-22-2006 are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred five per cent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at the Capitol in Phoenix, this 23rd day of August, 2006.


JANICE K. BREWER
Secretary of State



**Determination of Valid Signatures
CALCULATION - A.R.S. § 19-121.04(A)
Random Sample Validity Rate**

Total Invalid Random Signatures	divided by	Total Random Signatures	
<u>3,023</u>	divided by	<u>10,733</u>	= <u>28.17%</u>
Number of signatures eligible for Verification			<u>214,656</u>
Subtract Signatures found ineligible by County Recorder, but not included in random		--	<u>0</u>
	Subtotal		<u>214,656</u>
Multiply Random sample Invalidity Rate by Subtotal to Determine like number			
Subtotal	<u>214,656</u> times	<u>0.2817</u>	= <u>60,469</u>
Subtract the resulting number from Subtotal		--	<u>60,469</u>
 TOTAL VALID SIGNATURES			 <u>154,187</u>
 TOTAL PERCENTAGE OF VALID SIGNATURES			
Total valid signatures divided by Minimum Signature Requirement			<u>125.7520%</u>

**SECRETARY OF STATE'S OFFICE
DETERMINATION OF VALID SIGNATURES**

INITIATIVE AND REFERENDUM PETITIONS

Minimum Signature Requirement	<u>122,612</u>	95% <u>116,482</u>	105% <u>128,743</u>
Number of Signatures Submitted to Secretary of State			<u>220,181</u>
Number of Petition Sheets Removed by the Secretary of State According to A.R.S. §§ 19-121.01(A)(1) & 19-102(C)			<u>332</u>
Number of Signatures on those sheets			<u>3,519</u>
Number of Signatures Removed by the Secretary of State According to A.R.S. §19-121.01(A)(2)(3)			<u>2,006</u>
Total Signatures Removed by the Secretary of State			<u>5,525</u>
Number of Petition Sheets that Contain Signatures Eligible for Verification			<u>18,560</u>
Number of Signatures Eligible for Verification:		<u>214,656</u>	
5% of that Number		<u>10,733</u>	